

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

JOSEPH E. DANIELS, #81564

PETITIONER

VERSUS

CIVIL ACTION NO. 3:07cv548-HTW-LRA

STATE OF MISSISSIPPI

RESPONDENT

ORDER OF TRANSFER PURSUANT  
TO 28 U.S.C. § 1631

This matter comes before this Court, *sua sponte*, for consideration of transfer. The Petitioner, an inmate of the Mississippi Department of Corrections, currently incarcerated in the Wilkinson County Correctional Facility, Woodville, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254.

Petitioner states that he was sentenced by the Hinds County Circuit Court on April 15, 1996, to serve 30 years for possession of cocaine with intent to distribute. Having reviewed the records, this Court finds that the Petitioner previously filed for habeas relief challenging the same conviction and sentence, in *Daniels v. State*, civil action number 3:00cv198-WHB (S.D. Miss. Jan. 25, 2002). On January 25, 2002, this Court entered a Final Judgment which dismissed the case, with prejudice. The United States Court of Appeals for the Fifth Circuit denied the petitioner's certificate of appealability on July 24, 2006. *Daniels v. State*, 05-61000 (5<sup>th</sup> Cir. Jul. 24, 2006).

A Petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate Court of Appeals for an order authorizing the District Court to consider the successive motion. 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any

documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit to proceed with his cause in this Court. Therefore, this Court has determined that in the interest of justice, this cause should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. *See In Re Epps*, 127 F.3d 364 (5th Cir. 1997).

Accordingly,

**IT IS HEREBY, ORDERED AND ADJUDGED** that pursuant to 28 U.S.C. § 1631, this petition for habeas corpus relief is transferred to the United States Court of Appeals for the Fifth Circuit.

**IT IS FURTHER ORDERED AND ADJUDGED** that all pending motions shall be denied.

**IT IS FURTHER ORDERED AND ADJUDGED** that the Clerk of this Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED, this the 26th day of September, 2007.

s/ HENRY T. WINGATE  
CHIEF UNITED STATES DISTRICT JUDGE

Civil Action No. 3:07-cv-548 HTW-LRA  
Order of Transfer Pursuant to 28 U.S.C. § 1631